



Monterey County Planning Commission

Agenda Item No. 2

Legistar File Number: PC 18-099

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PLN171029 - LEAVY-HOGLUND PENELOPE CHRISTINE TR

Public hearing to consider a conditional certificate of compliance.

Project Location: 25735 Mesa Drive, Carmel, Carmel Area Land Use Plan, Coastal Zone

Proposed CEQA Action: Categorical Exemption pursuant to Section 15315 of the CEQA Guidelines.

RECOMMENDATION:

It is recommended that the Planning Commission:

- a. Find that the conditional certificate of compliance, Categorical Exempt pursuant to Section 15315 of the CEQA Guidelines, and there are no exceptions pursuant to Section 15300.2;
- b. Approve a Coastal Development Permit for a conditional certificate of compliance for Assessor's Parcel Number 009-231-023-000.

A draft resolution, including findings and evidence, is attached for consideration (**Exhibit B**). Staff recommends approval subject to five (5) conditions of approval.

PROJECT INFORMATION:

Property Owner: Leavy-Hoglund Penelope Christine TR

Agent: Anthony Lombardo & Associates

APN: 009-231-023-000

Zoning: Medium Density Residential, 2 units per acre, with a Design Control Overlay (Coastal Zone) [MDR/2-D (CZ)]

Existing Parcel Size: 7,861 square feet

Plan Area: Carmel Area Land Use Plan, Coastal Zone

Flagged and Staked: Not Required because the proposed conditional certificate of compliance does not include structural development.

SUMMARY:

The Applicant requests that the County issue a conditional certificate of compliance for a 7,861 square foot area of land within Assessor's Parcel Number (APN) 009-231-023-000 (i.e., the subject parcel). The Action to grant a conditional certificate of compliance relies on a determination of the intent of a 1969 conveyance of the subject area, which was part of a larger lot (APN 009-231-002-000 in 1969). In addition, an abutting parcel (APN 009-231-013-000) has been involved with development that occurred across both it and the subject parcel. In 1979, an addition to the single-family dwelling located on APN 009-231-013-000 crossed over the boundary onto APN 009-231-023-000; however, this addition was subsequently demolished under County Construction Permit 16CP01870. Presently, the subject parcel (APN 009-231-023-000) is completely vacant.

The question staff evaluated was whether the conveyance was intended to create a separate, third lot for development (i.e., a subdivision), or was the action intended as a lot line adjustment that reconfigured two lots to combine the subject area with APN 009-231-013-000. Staff reviewed the chain of title for the 7,861 square foot area of land and has found no conclusive evidence on the intent of the conveyance.

In 1969, if this conveyance was done with the intent to create a separate lot for development, it would have been a violation of the Subdivision Map Act (SMA) and County Ordinance 1496, and the conveyed parcel would be an illegal lot.

Another possible intent of the conveyance was to form a new, merged lot via a lot line adjustment (LLA). However, in 1969, neither the SMA nor local ordinance regulated or even contained the concept of a LLA. SMA Section 66412 was not amended until 1976 (effective January 1, 1977) to add LLAs as an exclusion to the SMA. Therefore, prior to 1977 there was no process in the code to effect a LLA.

As prescribed by the Subdivision Map Act (SMA) and Monterey County Code (MCC), a possible remedy to resolve this situation would be for the County to issue a conditional certificate of compliance, as requested by the Applicant and provided for in SMA Section 66499.35(b) and MCC Section 19.14.050.A.

DISCUSSION:

Based on applicable permit history, the County has never approved nor issued any permits solely or primarily for the benefit of APN 009-231-023-000. Primary development has always been connected to APN 009-231-013-000. The applicant for every permit issued, either graphically or in written form, represented that only one parcel was the subject parcel. All the permit history facts support a possible conclusion that the 1969 conveyance was understood by the respective owners and their successors in interest to be what is now known as a LLA. Therefore, APNs 009-231-013-000 and 009-231-023-000 could be considered one combined legal lot of record.

However, although the historical evidence points to a LLA, this conclusion is problematic. The County has no clear or explicit evidence that a LLA or lot merger was the intent of the parties. Although conveyed together under common ownership, APNs 009-231-013-000 and 009-231-023-000 have always been identified or described separately in every grant deed transferring ownership since 1969. One possible remedy to resolve this situation would be for the County to issue a conditional certificate of compliance, as requested by the Applicant and provided for in SMA Section 66499.35(b) and MCC Section 19.14.050.A. Pursuant to these Sections, if a local agency/County determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant to this division, it shall issue a conditional certificate of compliance and may impose any conditions as would have been applicable to the division of the property at the time the applicant acquired interest therein. Furthermore, fulfillment and implementation of the conditions shall be required prior to the parcel in question being deemed a legal parcel for the purpose of sale, lease, or financing. Therefore, staff has recommended applicable conditions, which are attached to the draft resolution.

See **Exhibit A** for a detailed discussion of the conveyance and permit history.

OTHER AGENCY INVOLVEMENT:

The following County agencies or departments reviewed this project:

RMA-Public Works
RMA-Environmental Services
Environmental Health Bureau
Water Resources Agency
Cypress Fire Protection District

The proposed project was not referred to the Carmel Unincorporated/Highlands Land Use Advisory Committee (LUAC) for review.

Prepared by: Joseph Sidor, Associate Planner, x5262

Reviewed by: Jacqueline R. Onciano, RMA Chief of Planning

Approved by: John M. Dugan, FAICP, RMA Deputy Director for Land Use and Development

The following attachments are on file with the RMA:

Exhibit A - Discussion
Exhibit B - Draft Resolution, including:
 - Conditions of Approval
Exhibit C - Vicinity Map

cc: Front Counter Copy; Planning Commission; California Coastal Commission; Cypress Fire Protection District; Environmental Health Bureau; RMA-Public Works; RMA-Environmental Services; Water Resources Agency; Brandon Swanson, RMA Services Manager; Joseph Sidor, Project Planner; Anthony Lombardo & Associates, Agent; Leavy-Hoglund Penelope Christine TR, Owner; The Open Monterey Project (Molly Erickson); LandWatch; RMA-Planning File No. PLN171029